

REMARKS

Claims 1, 2, 4-101, and 103-106 are pending, of which claims 2, 4, 21-35 and 51-90 are withdrawn from consideration.

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Informalities

Claims 9 is amended to overcome the informality listed by the Examiner in section 3 of the Office Action.

Rejections under 35 USC 112

Claims 1, 3, 5-20, 36-50, 91-101 and 103 are rejected under 35 USC 112 first paragraph on the ground that the limitation to “independent” products constitutes an addition of new matter to claims 1 and 97. The limitation has therefore been removed and the objection is believed to be overcome.

Rejections under 35 USC 102 and 35 U.S.C. 103.

Claims 1, 5-12, 14-20, 36-42, 44-50, 91-100, and 103-106 have been rejected under 35 U.S.C. § 102(e) as being clearly anticipated by Pallakoff US 6,269,343.

Claims 13, 43, and 101 are rejected under 35 U.S.C. 103(a) as being obvious over Pallakoff in view of Walker.

Independent claims 1 and 104 have been amended to specify that the group is made up of purchasing members and that the tender offer *price wise* is only presented to the group once the group is finalized in terms of purchasing members.

That is to say the amendment restricts the application to the situation in which a group of potential purchasers is first established with the help of the network. The group comprises a plurality of purchasing members who intend to participate in a group purchase which is only later on tendered to potential sellers. The sellers see a ready constituted group with a defined quantity that it is desired to be purchased and any other conditions that they may choose to impose. The sellers, following an invitation from the system, then offer the desired quantity at a tender offer price, and the group purchases the quantity from the seller offering the best price for the desired quality and other conditions.

It is stressed that no tender price exists until the group is fully constituted, and the final quantity is therefore determined because the size of the group is known, as presently claimed. In the present claims there is no possibility of potential sellers providing a quantity price curve since the tender offer made is a single price for a single already known quantity.

In Pollakof by contrast a tender does *not* occur. Rather a group is constituted on the fly. Each seller makes his offer *without* knowledge of how many members will join the group because the offer is made *before* the group comes into existence. Thus, in Pollakof's typical embodiment the offer is in terms of a *quantity price curve*. The price curve is of the following nature: For one to ten customers the price is X. For eleven to twenty customers the price is Y and so on. Pollakof fails to be attractive to users simply because the first members to join a group obligate themselves to pay the initial high prices in the curve if no other purchasers subsequently join the group. The Examiner's attention is drawn to Fig. 5 of Pollakof which clearly illustrates this distinction. In step 52 of Pollakof the system "displays demand thresholds and associated prices". In the present invention as claimed such a display is excluded

because there are no associated prices until *after* the group has been finalized and the quantity is already known. That is to say according to the present claim there is only a *single* tender price (per potential seller) for a *single* quantity and that price only exists *after* the group has been finalized. By contrast in Pollakof there are typically *numerous* prices, each for *different quantities* and these prices necessarily exist because the group has *not yet* come into being. That is to say all that Pollakof does at the end of the process is determine what the quantity is and then take the corresponding price from his preset list. By contrast the present claims require that a *tender offer* is made, that is a new price is selected by a potential seller based on the size of the group and without knowledge of other potential sellers, thereby forcing the seller to take into account competition issues to obtain the attention of the group.

Therefore, whilst Pollakof does teach team buying, he does *not* teach tendering and in particular does *not* teach the feature of the current independent claims as amended that the tendering price is *only* available *after* the group has been finalized. Such a feature is not even hinted at by Pollakof which on the contrary teaches a seller centered system in which the seller himself sets up the offer and there is no *group* within the meaning of the present application c.f Pollakof Co. 6 line 3.

Therefore both independent claims 1 and 104 are believed to be allowable since all of the objections of the Examiner have been overcome.

All dependent claims are believed to be allowable as being dependent on an allowable main claim.

We now relate specifically to the points raised by the Examiner in section 10 of the Office Action – Response to Arguments.

The Examiner notes that claim 1 is not limited to a product specification. Claim 1 has been amended to limit to the tender price being possible only after the

group has been finalized so that the claim is believed to be allowable irrespective of the point concerning a specification.

The Examiner notes that Pollakof discloses the possibility of more than one seller. However even with multiple sellers, Pollakof does not anticipate the invention as presently claimed since each seller reveals his price curve *in advance*. Thus, whilst Pollakof does indeed contemplate multiple sellers, it is curious how his system would work in practice, indeed see comments below regarding the issue of whether this feature is in fact enabled in Pollakof. However taking the comment at face value, at any given price it should be clear which seller would be successful and there is no room in Pollakof for sellers to shift their prices during the course of setting up the groups. Therefore there is no real competition. Thus whilst Pollakof does indeed mention multiple sellers he does not anticipate the invention but rather begs a question that the present invention may be seen as solving, namely to provide a system that presents a real competition issue for sellers and thus a real benefit for buyers. That is to say the present invention is buyer friendly whereas Pollakof, who does not have a tender, is seller friendly.

Contrary to what the Examiner states, it is respectfully pointed out that Pollakof does not allow the purchaser group to review the offers made by the tenderers. The offers made by the tenderers are static and fixed before the group is ever set up. The Examiner is referred to column 6 of Pollakof where from line 3 onwards the process of setting up a group is described. As clear the first stage of setting up a group buy offer is carried out by the seller. As stated in line 3 the seller chooses to enter a new group buy offer by entering certain information. In line 10 it is specified that *this initial information* includes a price. The price is in the form of a

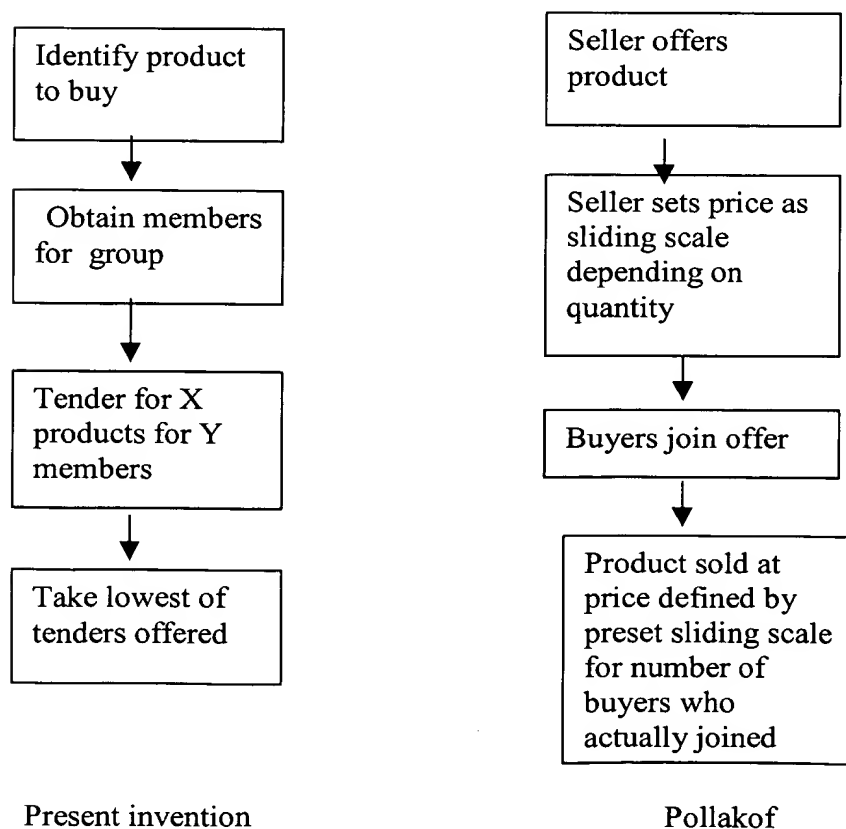
demand threshold. It is this aspect of Pollakof which ensures that a tender *does not occur* and that there is *no real competition* between sellers.

By contrast in the present invention the seller does not become involved until the group is finalized. There is no possibility of the seller of the present invention providing a demand threshold (as opposed to Pollakof col. 6 line 9, col 6 line 13,) since the demand is *already fixed* at the time that the seller comes on the scene. There is further no possibility of the *seller* of the present invention setting a date and time limit (Pollakof Col. 6 line 30) since the group is already set up and any such conditions already entered before the seller ever comes upon the scene.

The Examiner's attention is particularly drawn to Pollakof col 6 line 38 ff where it is stated "After the seller enters an offer to sell, the system presents the offer on one or more web sites until the date or time limit passes or the aggregate demand rises to the maximum available amount specified by the seller...". It is clear from this passage that the entire offer is made by a single seller, and that the entire system of Pollakof is made *on the seller's initiative*, that is Pollakof is seller driven. Prices are known from the start, thus ensuring no real competition between sellers. This contrasts with the present claims in which *no price is known until the groups are finalized*, thus making the system more balanced from the point of view of the buyers and providing real competition amongst sellers. Thus, despite Pollakof's mention of multiple sellers at column 2 lines 57-60 as pointed out by the Examiner, there is no enabling disclosure of how a seller could compete with other sellers for the attention of the group in Pollakof. This is because it is clear from the passages quoted above that it is the individual *seller* who sets up the group in Pollakof. Possibly what Pollakof refers to at col. 2 lines 57-60 is the disclosure on col. 6 lines 44-46 in which a number of different offers are permitted to exist side by side on the same website.

However each offer establishes a separate group and therefore multiple sellers do not actually compete for the attention of the same group. Rather they compete for the attention of the same potential group members. However in Pollakof, once a user has joined a group, all competition ceases in respect of that user. Thus applicant respectfully disagrees with the comment of the Examiner on page 11 that Pollakof “clearly allows for competition among a plurality of sellers”. As required by the present claims the competition between the sellers is provided in that no price is known until the final quantity is determined and thus each seller enters with an offer of a single tender price made to the entire group. By contrast in Pollakof the individual seller has set up the group and presented all information in advance. There is no enablement in Pollakof to show that a second seller could work his way into the group that a first seller has already set up.

The difference between Pollakof and the invention as claimed is illustrated in the following figure:



On page 11 final paragraph the Examiner points out that the applicant argues limitation not found in the claims. The present arguments are thus directed to the limitations that are present in the independent claims, either by way of the present amendment or by virtue of limitations already present.

In view of the above amendments and remarks it is respectfully submitted that all matters raised by the Examiner have been successfully addressed and that the pending claims are all now in condition for allowance.

No new matter has been added by the present amendments since the feature of the tender price being available only after the group has been finalized is clearly disclosed.

Prompt Notice of Allowance is respectfully and earnestly solicited.

Respectfully submitted,



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Date: February 24, 2004